

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

**RE: PROPOSED RULES, 47 CFR Part 54  
LIFELINE AND LINKUP PROGRAM**

**WC DOCKET NO. 03-109**

**REPLY COMMENTS OF THE NATIONAL CONSUMER LAW CENTER  
ON BEHALF OF MASSACHUSETTS UNION OF PUBLIC HOUSING TENANTS**

**SEPTEMBER 2, 2003**

**1. INTRODUCTION**

The National Consumer Law Center (“NCLC”), on behalf of and in conjunction with the Massachusetts Union of Public Housing Tenants (“MUPHT”), offers these reply comments in response to the Notice of Proposed Rulemaking (“NPRM”) appearing in the July 17, 2003 Federal Register (68 FR 42333). NCLC and MUPHT (collectively, “NCLC”) filed their initial comments on August 18, 2003. Here, NCLC replies to the comments of AT&T Corporation, BellSouth Corporation, and Verizon.

**2. NCLC AGREES WITH AT&T THAT THE COMMISSION SHOULD ENCOURAGE STATES TO IDENTIFY ELIGIBLE HOUSEHOLDS, BUT NOT AT THE EXPENSE OF STILL-NECESSARY CARRIER EFFORTS**

AT&T asks the Commission to “encourage states to identify eligible customers *rather than imposing this duty on carriers.*” AT&T Comments, p. 6 (emphasis added). NCLC generally agrees with AT&T’s observation that “[s]tates have ready access to necessary information” about which households in a state are eligible for Lifeline and Link-Up. *Id.* As NCLC noted both in its comments to the Joint Board and its August 18 comments to the Commission, many of the states that reach a high percentage of the Lifeline-eligible households use techniques that draw upon state databases about clients that receive various forms of public

assistance. There is no doubt that states can, for example, more easily identify and send letters to recipients of Temporary Assistance for Needy Families (“TANF”) and other government assistance programs which advise them that they are eligible for Lifeline. States can also go one step further and develop methods of automatically enrolling these households on Lifeline.<sup>1</sup>

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<sup>1</sup> However, states are not as well equipped as telephone companies, which are major and frequent buyers of print, TV, radio and other advertising, to engage in more mass-market advertising that would raise public awareness of the Lifeline program. Nor can states send out will staffers to telephone customers explain the Lifeline program.

NCLC therefore strongly agrees with AT&T that the Commission could perform a valuable role by encouraging states to identify eligible customers. AT&T further suggests that states could “handle the Lifeline application process and screen consumers to confirm the Lifeline applicant’s eligibility for low-income support.” AT&T Comments, p. 7. AT&T apparently believes that were states to “perform this function” they could somewhat recover these costs from the universal service fund. (“USF”). *Id.* It is not clear to NCLC that a state agency which identifies eligible households and performs functions related to application and enrollment could be compensated by the USF. Nor does this Commission have any authority to require states to carry out any application or enrollment functions. Therefore, NCLC suggests that the Commission should be wary of AT&T’s suggestion that the burden of handling the Lifeline application and screening process be shifted to states. While AT&T raises an idea worth exploring, there are many issues that would need in each state before it could be implemented. Thus, while NCLC agrees with AT&T that it would be beneficial to encourage states to identify eligible households and to do whatever they can to facilitate applications and enrollment, the Commission should avoid making any statements that would diminish the existing obligation of the carriers.<sup>2</sup>

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<sup>2</sup> NCLC, as noted in its comments to the Joint Board and this Commission, is very supportive of state efforts to effectuate automatic enrollment of eligible households and believes that this is one of the most effective tools for increasing the number of households who are enrolled on Lifeline. In states that do so, carriers, *de facto*, may find that their outreach and enrollment obligations are lessened. But the Commission should not shift any outreach, identification or enrollment obligations from carriers to states as part of an order that will apply in all states, including those states that do not utilize automatic enrollment.

3. NCLC GENERALLY AGREES WITH BELL SOUTH'S COMMENTS REGARDING INCOME ELIGIBILITY, ON-LINE VERIFICATION AND OUTREACH

NCLC appreciates BellSouth's support, as a carrier, for an income-based criterion for Lifeline eligibility. BellSouth Comments, p. 3. BellSouth correctly notes, as NCLC did in its comments to the Joint Board and this Commission, that there are many reasons why households that are truly low-income still move off of the various programs that qualify a household for Lifeline. *Id.* It is therefore sound policy to allow a household to demonstrate that its income is below 135% of poverty, as an alternative to demonstrating that it is on one of the qualifying programs listed in 47 C.F.R. § 54.409. A wide range of commenters support the Joint Board's proposal to add in an income-eligibility criterion, and the Commission should affirm this recommendation.

NCLC also agrees with BellSouth's comments (p. 6) that the use of on-line databases for verifying eligibility would be efficient and cost-effective, as well as minimizing the burdens on low-income households to track down paper documentation.

NCLC very much appreciates BellSouth's support (Comments, p. 7) for federal outreach guidelines. NCLC in fact proposed the guidelines language that appears in ¶ 51 of the Joint Board's Recommended Decision. However, as noted in its August 18, 2003 comments (pp. 8-9), NCLC urges the Commission to formally incorporate the guidelines into 47 C.F.R. § 54.405(b) in order to have a meaningful effect.

Finally, NCLC agrees with BellSouth (Comments, p. 4) that any state that wishes to implement automatic enrollment will have to consider the privacy rights of persons whose data would be shared between government agencies and companies, and that a range of other

administrative issues would have to be resolved. NCLC, however, noted in its August 18 comments (pp. 7-8) that at least two states, Massachusetts and Texas, have successfully addressed these issues. The Commission should do whatever it can to encourage and support other states that might consider using automatic enrollment.

4. VERIZON’S COMMENTS ARE CONTRARY TO FEDERAL LIFELINE POLICY AND SHOULD NOT BE ADOPTED

The thrust of the comments submitted by Verizon is nothing more than a call for inaction by this Commission, a request that the Commission not accept the key recommendations that the Joint Board has made regarding a new income-eligibility criterion and expanded program eligibility criteria. Despite the fact that the Referral Order to the Joint Board asked the Board “to undertake a review of Lifeline and Link-Up service . . . including a review of income eligibility criteria” and that the Joint Board consequently recommended changes to income and program eligibility, Verizon calls on this Commission to reject the work and recommendations of the Joint Board. NCLC strongly disagrees.

Verizon argues that the “current [eligibility] criteria,” which have been in place for six years, are “relatively new” and should not be changed without further study. Verizon Comments, p. 1. More fundamentally, Verizon challenges the very notion that the Joint Board should recommend and this Commission should adopt reasonable tools for enrolling more of the eligible households onto Lifeline and Link-Up, unless a causal link can be shown between higher Lifeline enrollment and higher telephone subscribership. Verizon maintains that identifying and enrolling new households is not what this Commission should be about, unless there is evidence

that doing so would also increase telephone subscribership. E.g., Verizon Comments, p. 14 (challenging the Joint Board’s proposal to add TANF and NSL as qualifying programs, in absence of “evidence” that this will “increase telephone subscribership”).

Verizon misreads the relevant statute and regulations and the stated purpose of this current proceeding. Congress has specified seven principles that the Commission and Joint Board must consider when establishing policies for “the preservation and advancement of universal service,” first of which is that “[q]uality services should be available at just, reasonable, and *affordable* rates.” 47 U.S.C. 254(b)(1)(emphasis added).<sup>3</sup> Thus, Congress is concerned not only with the “advancement . . . of universal service” by increasing the rate of subscribership, it is also concerned about the “preservation” of service for existing customers and making services “affordable.” *Id.* If the sole goal of universal service were to increase subscribership, there would be little need to offer lower Lifeline rates to households that already have telephone service. Yet the vast majority of all households that have received Lifeline discounts had telephone service long before they entered the program, as even low-income subscribership rates exceeded 80% as far back as 1984.

Nothing in the Commission’s regulations suggests that reaching households currently without telephone service is the sole or even primary goal of Lifeline/Link-Up. To the contrary, the regulations affirmatively require carriers to “[p]ublicize the availability of Lifeline in a manner reasonably designed to reach those likely to qualify for the service,” without limitation.

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<sup>3</sup> The Joint Board recognized that maintaining “affordable rates” is an explicit goal of the Lifeline program. Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (FCC 03J-2) Recommended Decision, 18 FCC Rcd 6589 (released April 2, 2003)(“Recommended Decision”), ¶¶ -5.

47 C.F.R. 54.405(b).

The Joint Board's solicitation of comments issued October 31, 2001 makes it clear that commenters should focus on methods that increase subscribership in the Lifeline/Link programs themselves, not just on methods that increase telephone subscribership. 66 Fed. Reg. 54969, col. 1 ("Specifically, commenters should discuss what steps have been taken to increase Lifeline/Link-Up subscribership in their respective states"). Further, the solicitation emphasizes "the goal of bringing *affordable rates* to low-income customers." *Id.* Nothing in the joint Board's Recommended Decision supports Verizon's assertion that this proceeding should only consider measures that would promote both Lifeline enrollment and telephone subscribership.

Verizon's erroneous interpretation of the purpose of this docket should not deflect the Commission's attention from measures that would significantly increase the penetration of Lifeline/Link-Up among eligible households. This would hinder the statutory goal of making "quality services . . . available at . . . affordable rates." 47 U.S.C. §254(b).

## 5. CONCLUSION

NCLC and MUPHT urge the Joint Board to adopt their recommendations.

Respectfully submitted,  
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